

## Statement on Blast 106 Limited's request to change the Key Commitments for Blast 106 (Belfast)

A request from Blast 106 Limited the holder of a community radio licence for Belfast, to change the Key Commitments of Blast 106 was discussed by Ofcom's Broadcast Licensing Committee (BLC) at its meeting on 14 April 2015. The BLC declined the request.

Blast's target community under both the current and proposed revised key commitments consists of: *"Students living in Greater Belfast from Queens University, the University of Ulster and Belfast Metropolitan College and young people living, working or studying in Greater Belfast"*.

Blast requested a number of changes to its Key Commitments. These were under the headings "programming", "social gain objectives" and "accountability to the target community". A copy of Blast's current Key Commitments with the requested changes 'tracked' into it was reproduced in Ofcom's consultation document dated 16 December 2014<sup>1</sup>.

### Statutory and policy criteria

Ofcom may consent to a departure from the character of the licensed service (a "Key Commitment change") in accordance with section 106(1A) of the Broadcasting Act 1990 (as modified by the Community Radio Order 2004) only if it is satisfied in relation to at least one of the following criteria (the "statutory criteria"):

- *"the departure would not substantially alter the character of the service"* (section 106(1A)(a));
- *"the departure would not narrow the range of programmes available by way of relevant independent radio services to persons comprising the relevant community"* (section 106(1A)(b));
- *"there is evidence that, amongst persons comprising that community, there is a significant demand for, or significant support for, the change that would result from the departure"* (section 106(1A)(d));
- *"the departure would not be prejudicial to the access by members of that community to the facilities used for the provision of the service and for training in the use of those facilities"* (section 106(1A)(e)); or
- *"the departure would not be prejudicial to the delivery of social gain resulting from the provision of the service provided"* (section 106(1a)(f)).

Under section 106ZA of the Broadcasting Act 1990, Ofcom must consult on a change that is not considered by Ofcom to satisfy the first of these criteria.

On initial review, Ofcom considered that the cumulative effect of the changes would represent a substantial departure from the character of the service of Blast 106. This

---

<sup>1</sup> [http://stakeholders.ofcom.org.uk/binaries/consultations/blast-106/summary/Blast\\_106\\_Ltd.pdf](http://stakeholders.ofcom.org.uk/binaries/consultations/blast-106/summary/Blast_106_Ltd.pdf)

cumulative view included consideration of the proposed reduction in required speech output, changes to the description of music and speech output, and changes to accountability measures.

We therefore published a public consultation, which ran from 16 December 2014 until 16 January 2015. We received 77 responses, of which 72 were in favour of the change and five opposed. The responses (or, where requested by the respondent, a short summary) may be found here: <http://stakeholders.ofcom.org.uk/consultations/blast-106/>

Where Ofcom is satisfied that the proposed change would meet one of the statutory criteria, it still has discretion as to whether or not to agree to the change. Ofcom has published guidance about how it generally expects to exercise its discretion<sup>2</sup>. This guidance specifically refers to the following factors (the “policy criteria”):

- Whether the proposed change conflicts with the community radio ‘characteristics of service’ set out in the legislation. We consider that such a conflict would run counter to the legislation.
- The time elapsed since the licence commenced. We propose that a station should be operating under its agreed Key Commitments for at least one year before we will consider a change to Key Commitments.
- The reason for the change. It may be appropriate for us to take account of the kind of environment within which the station operates and that in the light of experience a station may need to adjust its commitments to better serve its target community.
- The extent of the impact of the change on the character of the service. A judgement will need to be made on the basis of the overall sound of the station, as well as whether the change is likely to affect the delivery of an appropriate service to the stated target community, and what effect the change will have on the delivery of off-air activity such as social gain objectives.
- The avoidance of ‘format creep’. We will be alert to the possibility that a series of small changes could result in a substantial alteration, and we will therefore take into account the effect of any proposed change in the context of previous changes.

## **Ofcom’s decision**

### Statutory criteria

In relation to **section 106(1A)(a)**, the Committee considered this was not met because the cumulative effect of the changes was likely substantially to alter the character of the service; this was in line with Ofcom’s initial view which led it to consult.

With regard to **section 106(1A)(b)**, the effect of the proposed changes was considered likely to narrow the range of programmes available to the relevant community (i.e. the target community referred to in the Key Commitments), in particular to the student population of Belfast. The criterion was also therefore considered not to be met.

---

<sup>2</sup> <http://stakeholders.ofcom.org.uk/binaries/broadcast/radio-ops/kc-changes-guidance.pdf>

With regard to **section 106(1A)(d)**, the Committee took into account audience research referred to by Blast, and expressions of support for the service received in response to the consultation. However, it also noted that, in both cases, this primarily related to support for the existing service rather than the proposed changes specifically. Given the Committee considered another statutory criterion was met (below) it was not, however, necessary to reach a final view on whether this criterion was satisfied and the Committee did not do so.

The Committee was satisfied in relation to **section 106(1A)(e)**. In its request, Blast maintains that the proposed changes do not diminish its commitment to access, and no changes are proposed to the section of the Key Commitments headed 'access and participation'. The Committee noted that, in the accountability section of its Key Commitments, Blast proposes to remove references to different membership grades and a membership fee, and it has simplified wording in relation to community participation. The Committee considered both changes may aid access to the station and becoming a member to some extent. On the other hand, as noted above, the Committee considered other changes may reduce the amount of certain student-focussed material that would need to be provided to meet the Key Commitments. If Blast uses the added flexibility to reduce the amount of material of appeal to students, then students may be less likely to engage with the station and wish to access it. However, on balance, the Committee considered that this criterion was met.

In relation to **section 105(1A)(f)**, the Committee considered the changes would tend to reduce the amount of certain types of content, including local student news, sport and politics and material for minority groups that Blast 106 was required to provide. As a result, the Committee was not satisfied that the criterion was met.

### Policy criteria

Having been satisfied in relation to one of the relevant statutory criteria (that in section 106(1A)(e)), the Committee then considered this request under Ofcom's policy criteria. As noted above, the legislation gives Ofcom discretion as to whether not to consent to a proposed change, if one of the statutory criteria is satisfied. Unlike with the statutory criteria, where only one need be satisfied to allow Ofcom to move on to consider the policy criteria, Ofcom reaches a view in the round on the extent to which the policy criteria are met.

In relation to the **first policy criterion** the Committee considered the change may, to some extent, conflict with the "*characteristics of service*" set out in regulation 3 of the Community Radio Regulations 2004. These include that they are "*intended primarily to serve one or more communities (whether or not it also serves other members of the public)*"; that they give opportunities for the community to participate in operations and management; and that they are accountable to the target community.

The Committee was concerned that, while there would still be some student-focused material, the extent to which that part of the target community was served would be likely to be reduced by the proposed changes. For example, it noted that certain types of programming would be provided, "*in response to demand*" from minority student groups and ethnic minority groups and make provision subject to, "*the capacity of those groups to create programming*". Additionally, certain types of programmes would "*typically be[ing] featured in*

*evenings and/or at weekends*”, and references to “*minority student groups*” and provision of “*local student news and student politics*” are removed from the social gain objectives (noting, however, these remain listed under “programming”).

In relation to accountability and participation in management, the Committee considered there was also a degree of conflict. Whilst recognising the attempt at simplification of existing rules, the combination of the proposed removal of a specific reference to the primary focus of the station being on the student community of three named institutions and the proposed reference to involvement of “alumni” of such institutions on the governing Council of the station gave rise to some concerns (noting “alumni” potentially encompasses people who graduated a considerable time ago and have negligible current connection with the academic body).

The Committee also had concerns in relation to the **fourth policy criterion**, namely “*The extent of the impact of the change on the character of the service*”.

The BLC considered that the likely cumulative effect of the changes would be expected to impact on the character of service in a number of respects. In particular, the Committee considered that the changes would reduce the required speech output and change the description of music output, potentially reducing variety of music genres. The Committee also noted a number of caveats in the wording proposed by Blast, including making obligations to facilitate programming by minority student groups and ethnic minority groups a reactive one rather than an active obligation to seek out such groups and content. Importantly, there are also references to the extent of coverage being “editorially determined by Blast 106 Limited” (e.g. in relation to student news, sport and politics). Whilst the selection of material (e.g. which stories and events to give prominence to) is plainly an editorial matter for licensees, the Committee considered that the *extent* of coverage is fundamental to character of service and Ofcom is responsible under section 106(1) for including conditions for securing the maintenance of character of service.

The Committee considered and did not have any concerns in relation to the **second, third and fifth policy criteria**.

On balance, considering all policy criteria in the round, the Committee did not consider it was appropriate to consent to the proposed changes. It noted that, in so doing, it was considering the cumulative effect of the changes – it was not in a position to consent to some changes but not others.

**The conclusion of the BLC, therefore, was that the proposed changes should be rejected by Ofcom, on the basis that the departure from the existing Key Commitments would not be acceptable in relation to two of the Ofcom policy criteria, as set out above.**

May 2015